



UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
--------------------	-------------	-----------------------	------------------

EXAMINER

ART UNIT	PAPER NUMBER
----------	--------------

4

DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), ~~or thirty days~~, ~~whichever is longer~~, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-5 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-5 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

7/1/98

Art Unit: 1761

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of the prior art as evidenced by Tenner et al, further in view of Esty ('524), Reference M (Europ. '963), Kramer ('858), Yuen ('670), Reference L (Fre. '649), Plakas ('860), Brumley ('603), Fear ('733), Jensen ('273), Wolf ('468) and Clement ('123).

In regard to claim 1, as evidenced by applicant's admission of the prior art found on pages 1 and 2 of the specification and further evidenced by Tenner, it was conventional in the art to provide a bag (eg. a bag intended to be used to portion food for storage) and wherein the bag is provided with printing on at least one side wall wherein the printing indicates a day of the week. Claim 1 differs from applicant's admission of the prior art as evidenced by Tenner et al in that at least several days of the week are printed on the bag (and in the case of claim 2 all seven days of the week are printed on the bag). Once it is known to print indicia on a receptacle, the particular indicia one selects is seen to have been an obvious result effective variable. Further, once it is known to print a day of the week on a receptacle to indicate a storage date and once it is known to mark bags to indicate a storage date as evidenced by applicant's admission and Tenner et al, to combine the two conventional concepts and provide a plurality or all seven days of the week so

Art Unit: 1761

that one would then make or indicate which of the days the product was stored would have been clearly obvious. This is especially true in view of the fact that applicant is not the first to provide a receptacle with indicia which allows one various choices to select to impart various selective messages. Esty, Reference M, Kramer, Yuen, Reference L, Plakas, Brumley, Fear, Jensen and Wolf can all be relied on to teach that the art is replete with examples of receptacles wherein through the use of printed indicia, a person has a varied selection of messages or communications or data that can be selected. These indicia include the days of the week and dates of the month. Thus, it is even notoriously old to provide receptacles with printed indicia indicating the days of the week so that one may be selected. The art taken as a whole also suggests indicia which indicate various possible contents for selection. Clement is only being relied on as further evidence of the concept of providing printed indicia which offers one a selection, for example, by marking off one of a various number of possibilities. To modify applicants admission of the prior art as further evidenced by Tenner et al and provide a plurality of days for selection purposes for its art recognized and applicant's intended function would have been clearly obvious in view of the art taken as a whole. In regard to claim 3, Tenner et al teaches it would have been obvious to provide the indicia in at least two languages. In regard to claim 4, the style of the indicia is seen to have been an obvious matter of design.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Jensen ('780).

Serial Number: 08/884,146

Page 4

Art Unit: 1761

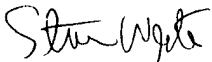
Claim 5 differs from the combination in that the bags are connected in a saddle arrangement. As evidenced by Jensen, it is well established to provide bags in a saddle arrangement. To modify the combination and provide the bags in such a conventional arrangement for its art recognized and applicant's intended use for dispensing would have been obvious.

The remainder of the references cited in the PTO 892 forms are cited as art of interest.

Any inquiry concerning this communication should be directed to Mr. Weinstein at telephone number (703) 308-0650.

Weinstein/mm

^{12*}
July 21, 1998


STEVEN WEINSTEIN
PRIMARY EXAMINER
ART UNIT 132
7/22/98